

REMARKS

Reconsideration and further examination is requested. Claims 1-7, 10-14, 16-20, and 22-30 are currently pending. Claim 9 has been cancelled. Claims 1 – 6, 10, 11, 13, 16, 20 and 22-23 have been amended to more particularly point out the scope of the invention. These claim amendments are made without prejudice to file new claims in an additional application. Claims 25-30 have been added.

37 CFR 1.131 Affidavit & Evidence

Applicant is re-submitting Applicant's Declaration and supporting evidence originally submitted November 3, 2003 with a Request for Continued Examination and last submitted February 12, 2007 with an Appeal Brief. Applicant respectfully submits that the re-submitted Declaration and Evidence effectively swears behind the Dwek and Eyal references and requests reconsideration of the evidence contained therein. In accordance with 37 C.F.R. 1.131, the included declaration shows conception of the invention prior to the effective date of the Dwek and Eyal references coupled with due diligence from prior to said dates to the filing of the present patent application. As such, pending claims 1-7, 10-14, 16-20, and 22-30 are in a condition for allowance and Applicant respectfully requests removal of the Section 103 rejections of these claims. Notwithstanding the fact that the Section 131 Affidavit and supporting evidence alone will remove the Dwek and Eyal references from consideration and should alone overcome the pending rejections, Applicant presents arguments below when taken together with the present amendments, also overcome the Section 103 rejections.

Claim rejections under 35 USC § 103

The Office Action has rejected Claims 1, 5-7 and 9 under 35 USC §103(a) as being unpatentable over U.S. Pat. No. 6,248,946 (Dwek) in view of U.S. Pat. No. 6,587,127 (Leeke). Applicant traverses these rejections. Reconsideration and further examination is respectfully requested for the reasons that follow.

Specifically, with respect to Claim 1, the Examiner states that col. 4, line 60 – col. 5, line 30, col. 9, lines 12-17 & 46-57 of Dwek and col. 8, lines 2-32, col. 14, line 52 – col. 15, line 17 of Leeke discloses a file download device which automatically access first and second multimedia files and downloads the selected files. However, neither the sections of Dwek highlighted by the Examiner, nor the sections of Leeke highlighted by the Examiner teach the claim 1 limitation of “a file download device... which, based on the download schedule, automatically accesses said first and second multimedia files... and downloads the selected multimedia files.” There is absolutely no description of *automatically accessing and downloading multimedia files based on the download schedule*. In fact, both the Dwek and Leeke sections highlighted by the Examiner teach away from these claim limitations. For example, col. 9, line 12, of Dwek teaches that “[t]he user may play a highlighted playlist by *selecting the play button*.” Additionally, although Leeke refers to “a planned schedule” in col. 14, line 54, Leeke ultimately discloses “clicking on or otherwise selecting a link...” to access files and does not disclose *automatically accessing and downloading multimedia files based on a download schedule*. Additionally, no other section of Leeke, Dwek, or any other reference relied upon by the Examiner, together or individually, explicitly or implicitly discloses this claim limitation. Furthermore, the Examiner has failed to present any reasoning that might supply this

claim element. Therefore, Applicant submits that claim 1 is in a condition for allowance and the Section 103 rejection of claim 1 should be removed.

Applicant has also amended claim 1 to state that (i) the processing module is located in a centralized scheduling website and automatically collects a schedule of the availability of first and second multimedia files, and (ii) a web browser plug-in selection interface provides for presentation of the collected information, etc.. Applicant submits that each of these modifications are supported by the specification. For example, Applicants' modification of a processing module in a centralized scheduling website automatically collects schedules of multimedia file availability is supported by page 7, lines 16-22, amongst other locations throughout the specification. Likewise, the web browser plugin modification may be found on page 8, line 22 to page 9, line 5 and page 10, lines 1-10.

Furthermore, Applicant submits that neither Dwek, Leeke, nor any other reference relied upon by the Examiner, together or individually, explicitly or implicitly discloses these amendments, nor has the Examiner presented any reasoning that might supply these claim elements. For example, there is no disclosure of a centralized scheduling website that *automatically* collects information including a first schedule of the availability of said first multimedia file and a second schedule of the availability of the second multimedia file. Although the Examiner states Dwek discloses a "processing module... to collect information including... [a] schedule of the availability" of a first and second multimedia file, Applicant can find no disclosure in Dwek of a processing module which *automatically* collects a multimedia file availability schedule. In fact, col. 4, lines 53- 67 and col. 6, lines 15-52 relied upon by the Examiner for the disclosure of this element does not disclose a centralized scheduling website or the collecting of any availability schedule as col. 4, lines 53-67 fail to mention or even allude to

any type of multimedia file schedule, let alone automatically collecting schedules for different multimedia files. Furthermore, col 6, lines 15-52 also fail to mention or even allude to any type of schedule of a multimedia file. Likewise, Leeke col. 16, line 43 – col. 17, line 3 fails to disclose *automatically* collecting any schedule of availability of a multimedia file. As stated in col. 16, lines 33-42 of Leeke, it is not the collection of *multimedia file availability schedules* which is automatically collected, but the *playback of the multimedia file is automatically initiated* at the time the multimedia file is available, and only in response to a user selecting the file in the first place. Leeke col. 16, line 43 – col. 17, line 3 only discloses *a radio station scheduled event*. Applicant submits that it is well known in the art that an automatic playback of a radio station scheduled event is not a disclosure of *automatically* collecting a schedule of availability of a multimedia file. For these reasons, claim 1 is in a condition for allowance and Applicant respectfully requests removal of the Section 103 rejection of claim 1. As claim 1 is in a condition for allowance, claims 5-7 and 9, which are dependent upon claim 1, are likewise in a condition for allowance.

Applicant submits that claim 5 is also in a condition for allowance because neither Dwek nor any other reference relied upon by the Examiner discloses that “at least one of the selection interface and the file download device are configured as plugins in a web browser installed in the client computer.” Dwek only discloses plug-ins adapted to play songs. There is absolutely no disclosure in Dwek, nor any other reference relied upon by the Examiner, of a selection interface and a file download device configured as a plug-in. Nor has the Examiner presented any reasoning that might supply these claim elements. As such, Applicant submits that claim 5 is in a condition for allowance.

The Examiner has rejected claims 2-4 under 35 USC 103(a) as being unpatentable over Dwek and Leeke in view of U.S. Pat. No. 6,199,076 (Logan). Applicant incorporates the arguments above made with respect to claim 1 and again submits that claim 1 is in a condition for allowance. Therefore, since claims 2-4 are dependent upon claim 1, these claims are likewise in a condition for allowance.

Additionally, claim 2 is in a condition for allowance because the Examiner is incorrect in stating that “Logan teaches wherein the processing module in the central website receives a download schedule file from remote multimedia websites on a periodic bases (e.g., col. 2, line 44 – col. 3, line 11)”. In fact, Logan fails to disclose that a processing module in a central website receives anything. What Logan states is that “a server... periodically *transmits* to [sic] the session schedule *to the player*.” Applicant submits that it is well known in the art that a server transmitting to a player is not a disclosure of a centralized scheduling website automatically receiving a schedule file from a plurality of remote multimedia websites on a periodic basis. Furthermore, as stated in col. 6, lines 51-53 of Logan, the “periodic” transfer of a compilation file (which includes the schedule) only occurs “upon receiving a request from the player”. However, as stated in claim 2, and supported by page 9, lines 6-15 of the specification, the schedule in the current application is *automatically* transferred without any request. Applicant submits that no other reference relied upon by the Examiner discloses these missing claim elements, nor has the Examiner presented any reasoning that might supply them. As such, Applicant submits that claim 2 is in a condition for allowance and Applicant respectfully requests removal of the Section 103 rejection of claim 2.

Furthermore, Applicant submits that Dwek fails to disclose the claim 3 limitation of “a receiver plug-in module on a client computer to automatically request and receive one or more

portions of a program listing created by the processing module on the centralized scheduling website in response to receiving the schedule file from each of the plurality of remote multimedia websites.” Dwek only discloses plug-ins adapted to play songs. There is absolutely no disclosure in Dwek, nor any other reference relied upon by the Examiner, of a plug-in to provide any *request* or *reception* functionality of any file, let alone a plug-in to request and receive one or more portions of *a program listing created by the processing module* on the centralized scheduling website in response to receiving the schedule file from each of the plurality of remote multimedia websites. As such, Applicant submits that claim 3 is in a condition for allowance.

The Examiner has rejected claims 10, 11, 13, 14, 17, 18, and 20 under 35 USC 103(a) as being unpatentable over Dwek in view of Leeke and further in view of U.S. Pat. No. 6,389,467 (Eyal). Applicant submits that neither Dwek, Leeke, nor Eyal discloses the claim 10 limitations of (i) a centralized scheduling website, (ii) a consolidated Internet program listing, (iii) presenting an interactive interface in a web browser through a first web browser plug-in, and (iv) accessing and downloading the selected multimedia files through a second web browser plug-in. Specifically, the file servers in Dwek are not *scheduling* websites as they do not provide any scheduling functionality – they are simply file repositories. Additionally, Dwek does not disclose a *consolidated* Internet program listing containing all collected identity information as Dwek only discloses receiving *user-selected* information. Furthermore, Applicant incorporates the argument made above with respect to claim 3 and argues that no disclosure relied upon by the Examiner discloses a plug-in that presents an interactive interface or allows the ability to access and download multimedia files. Therefore, Claim 10 is in a condition for allowance and Applicant respectfully requests removal of the Section 103 rejection of claim 10. Likewise, as

claims 11-14 and 16-19 are dependent upon claim 10, these claims are therefore in a condition for allowance.

Claim 13 is also in a condition for allowance because, as described above with respect to claim 1, no reference relied upon by the Examiner discloses *automatically* retrieving multimedia files. As such, Applicant respectfully requests removal of the Section 103 rejection of claim 13.

Additionally, claim 16 is in a condition for allowance because no reference relied upon by the Examiner discloses the use of an automated scheduler subroutine to resolve conflicts, as disclosed in page 13, lines 10-18 of the specification. As such, claim 16 is in a condition for allowance and Applicant respectfully requests removal of the Section 103 rejection of claim 16.

Additionally, Applicant's amendments to claim 20 are supported by the specification's disclosure on page 10, lines 1-20. Applicant submits that no reference relied upon by the Examiner discloses a plug-in which (i) requests one or more portions of a first list created by a scheduler according to a user's preferences, (ii) receives the one or more portions from the scheduler, the one or more portions having a first part comprising a category listing and a second part comprising the entire first list, and (iii) stores the first and second parts on the desktop computer. Furthermore, the Examiner has presented no reasoning that might supply these missing claim elements. Therefore, Applicant submits that claim 20 is in a condition for allowance and respectfully requests removal of the Section 103 rejection of claim 20.

Likewise, new claims 25 and 26 are supported by page 9, lines 6-22 of the specification. Applicant submits that no reference disclosed by the Examiner discloses these claim limitations, nor has the Examiner presented any reasoning that might supply these claim elements. Therefore, claims 25 and 26 are in a condition for allowance and Applicant respectfully request removal of the Section 103 rejection of claims 25 and 26.

Similarly, claims 27-29 are supported by page 10, line 11 to page 12, line 9 of the specification. Applicant submits that no reference disclosed by the Examiner discloses these claim limitations, nor has the Examiner presented any reasoning that might supply these claim elements. Therefore, claims 27-29 are in a condition for allowance and Applicant respectfully request removal of the Section 103 rejection of claims 27-29.

Finally, new claim 30 is supported by page 14, lines 12-15 of the specification. Applicant submits that no reference disclosed by the Examiner discloses these claim limitations, nor has the Examiner presented any reasoning that might supply these claim elements. Therefore, claim 30 is in a condition for allowance and Applicant respectfully request removal of the Section 103 rejection of claim 30.

CONCLUSION

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Shane Percival, Applicants' Attorney at 720-536-4906 so that such issues may be resolved as expeditiously as possible. Furthermore, Applicant in no way acquiesces to any statement made by Examiner in the office action.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

March 18, 2010

/Shane Percival/

Dated

Shane Percival
Attorney/Agent for Applicant(s)
Reg. No. 61597

Shane Percival
NEUGEBOREN O'DOWD PC
1227 Spruce Street, Suite 200
Boulder, Colorado 80302
Tel: (720) 536-4900
Fax: (720) 536-4910